

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOYANNA L. CLAYTON,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration¹,

Defendant.

CASE NO. 12-cv-05872 RJB

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on defendant's stipulated motion to remand the matter to the administration for further consideration. (ECF No. 22.)

After reviewing defendant's stipulated motion and the relevant record, the undersigned recommends that the Court grant defendant's motion, and reverse and remand this matter to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

¹ Carolyn W. Colvin became the Acting Commissioner of the Social Security Administration on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin is substituted for Michael J. Astrue as the defendant in this suit.

1 On remand, based on the parties' stipulation, this Court recommends that the ALJ offer
2 plaintiff an opportunity for a new hearing, update the medical record, and issue a new decision.

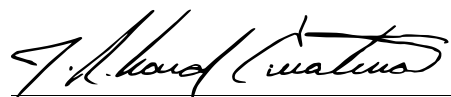
3 The ALJ should also: (1) further evaluate the opinion provided by, Robert Crist, M.D.,
4 and explain the reasons for the weight accorded to this opinion with specific references to
5 medical evidence; (2) evaluate the lay witness statement provided by plaintiff's sister, Misty
6 McNeil, in accordance with Social Security Ruling (SSR) 06-03p relating to evidence from other
7 sources; (3) further consider plaintiff's residual functional capacity on the reevaluated record
8 citing specific evidence in support of the assessed limitations; and (4) obtain supplemental
9 evidence from a vocational expert to clarify the effect of the assessed limitations on plaintiff's
10 occupational base, ensuring that such testimony is consistent with the Dictionary of Occupational
11 Titles and SSR 00-4p.

12 This Court further recommends that the ALJ take any other actions necessary to develop
13 the record. In addition, plaintiff should be allowed to submit additional evidence and arguments
14 to the ALJ on remand.

15 Following proper presentation, this Court will consider plaintiff's application for
16 attorney's fees and expenses pursuant to 28 U.S.C. § 2412(d), and costs pursuant to 28 U.S.C. §
17 1920.

18 Given the facts and the parties' stipulation, the Court recommends that the District Judge
19 immediately approve this Report and Recommendation and order the case be **REVERSED** and
20 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

21 Dated this 12th day of March, 2013.

22 

23 J. Richard Creatura
24 United States Magistrate Judge